

DATE 28 SEP 2007

APPLICATION NUMBER 101517,324

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In re Application of	:	
LIANG, ZICAI, et al	:	
Application No.: 10/517,324	:	DECISION ON RENEWED
PCT No.: PCT/SE03/01077	:	
Int. Filing Date: 23 June 2003	:	PETITION
Priority Date: 21 June 2002	:	
Attorney Docket No.: 040679	:	UNDER 37 CFR 1.181
For: RANDOMISED DNA LIBRARIES AND	:	
DOUBLE SIDED-STRANDED RNA LIBRARIES,	:	
USE AND METHOD OF PRODUCTION	:	
THEREOF	:	

This decision is in response to applicant's "RENEWED PETITION UNDER 37 C.F.R. 1.181" filed 23 July 2007 to withdraw the holding of the abandonment of the application.

### **BACKGROUND**

On 23 May 2007, applicants were mailed a decision dismissing applicants' petition under 37 CFR 1.181. Applicants were afforded two months to file any request for reconsideration and advised that this time period could be extended pursuant to 37 CFR 1.136(a).

On 23 July 2007, applicants filed the present renewed petition for reconsideration of the dismissal of applicants' petition.

### **DISCUSSION**

As detailed in the decision mailed on 23 May 2007, 37 CFR 1.821(g) refers to nucleotide and/or amino acid sequence disclosures in patent applications. It requires compliance with the requirements of 37 CFR 1.821(b) through (f). If they are not satisfied at the time of filing under 35 U.S.C. 111(a) or at the time of entering the national

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stage of an international application under 35 U.S.C. 371, applicant will be notified and given a period of time to comply with such requirements in order to prevent abandonment of the application. When an action by the applicant is a *bona fide* attempt to comply with these rules and it is apparent that compliance with some requirement has inadvertently been omitted, the applicant may be given a new time period to correct the omission.

Applicants argue that they were never advised whether the sequence listings filed on 12 May 2006 and 30 June 2006 failed to conform to regulations prior to abandonment.

Applicants submitted four sequence listings throughout the history of this application. A third sequence listing was filed on 12 May 2006 and then a supplemental sequence listing on 30 June 2007 replacing the previous filed sequence listing. On 06 July 2006, the Scientific and Technical Information Center (STIC) Biotechnology Branch issued an error report indicating that the sequence listing did not conform to the requirement. The error report was based on the 30 June 2007 filing. However, the 30 June 2007 sequence listing was not an effective response since it was filed beyond the one-month reply period as set forth in the NOTIFICATION OF DEFECTIVE RESPONSE (PCT/DO/EO/916) mailed 12 April 2006 in response to the second submission of sequence listing. No extension of time remained from the NOTIFICATION TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE AND/OR AMINO ACID SEQUENCE DISCLOSURES (PCT/DO/EO/922) mailed 26 July 2005 with regard to the first filed sequence listing. The sequence listing filed on 12 May 2006 was also processed, but did not fulfill the requirement as set forth in 37 CFR 1.821(g). Courtesy copies of the error reports are hereby attached.

With regard to non-receipt of the error report, once a PCT/DO/EO/916 is mailed and applicants failed to meet the requirement with the filing of the new sequence listing, applicants are not afforded another opportunity to correct any defects remaining on the sequence listing due to the fact that the period for response to the 916 is non-extendable. A notice of abandonment was properly mailed on 24 May 2007 as a result of applicants' failure to comply with the requirements of the application.

In summary, applicants failed to initially file an acceptable sequence listing, the time period set in the original request for an acceptable sequence listing has expired as also has the additional one month grace period set in the PCT/DO/EO/916, and to date applicants still have not submitted an acceptable sequence listing. In view of the fact that all time periods have expired, the case is properly held to be abandoned.

### **CONCLUSION**

For the reasons detailed above, applicants' petition under 37 CFR 1.181 is **DISMISSED**.

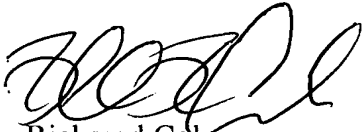
This application remains **ABANDONED**.

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Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181." Any further extensions of time available may be obtained under 37 CFR 1.136(a).

In the alternative, applicants are strongly urged to consider filing a petition to revive the application under 37 CFR 1.137.

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in black ink, appearing to read 'Richard Cole', is positioned above the printed name and title.

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